

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JANE DOE, <i>individually and on behalf of all</i> <i>Other similarly situated consumers,</i>	:	CIVIL NO. 23-CV-00585-MEM
	:	
<i>Plaintiff,</i>	:	Honorable Malachy E. Mannion
	:	
v.	:	Action Filed: March 13, 2023, Court
	:	of Common Pleas of Pennsylvania,
	:	Lackawanna County, Civil Division
LEHIGH VALLEY HEALTH NETWORK, INC.,	:	No. 23-CV-1149
	:	
<i>Defendant.</i>	:	Action Removed: April 6, 2023

PLAINTIFF’S MOTION FOR REMAND

1. Plaintiff, a citizen of Pennsylvania, filed her original Verified Complaint in the Court of Common Pleas for the Commonwealth of Pennsylvania, Lackawanna County (“State Court”) on March 13, 2023 (“Complaint”). *See* ECF No. 1-1.

2. On March 28, 2023, Defendant Lehigh Valley Health Network, Inc. (“LVHN”) was served with the Complaint. *See* ECF No. 1-2 at ¶4.

3. On April 4, 2023, Plaintiff notified LVHN of her Motion for Preliminary Injunction on April 4, 2023, which was set to be heard on April 10, 2023 in State Court. *See* ECF No. 1 at ¶ 10.

4. LVHN filed its Notice of Removal on April 6, 2023, claiming federal jurisdiction exists under the Class Action Fairness Act (“CAFA”), several weeks before its due date to avoid the April 10 hearing in State Court. *See* ECF No. 1.

5. As set forth in more detail in the accompanying Memorandum of Law in support of this Motion, CAFA jurisdiction cannot exist pursuant to any of the three exceptions to CAFA jurisdiction, either the local controversy exception, home state controversy exception, and/or CAFA’s discretionary exception, because it is more likely than not that over two-thirds of the

proposed class consists of Pennsylvania citizens. *See* 28 U.S.C. § 1332(d)(3), (4).

6. Accordingly, based on each of the clearly codified CAFA exceptions, Plaintiff hereby moves for an order remanding this action to State Court for lack of subject matter jurisdiction. *See* 28 U.S.C. § 1447(c) (“[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case *shall be* remanded.”).

7. To the extent that this Court is inclined to deny this Motion, Plaintiff requests limited jurisdictional discovery to aid the Court in determining whether it is more likely than not that the proposed class consists of more than two-thirds of citizens from Pennsylvania.

8. After remand, Plaintiff requests leave to file her motion for attorneys’ fees and costs pursuant to 28 U.S.C. § 1447(c), and requests the Court set a schedule for doing so.

WHEREFORE, Plaintiff respectfully requests this Court remand the action to the Court of Common Pleas for the Commonwealth of Pennsylvania, Lackawanna County.

Respectfully submitted,

DATED: April 14, 2023

By: S/ Patrick Howard
Simon B. Paris
Patrick Howard (88572)
SALTZ MONGELUZZI & BENDESKY, P.C.
1650 Market Street, 52nd Floor
Philadelphia, PA 19103
(215) 496-8282 (phone)
(215) 496-0999 (fax)
sparis@smbb.com
phoward@smbb.com

Todd J. O’Malley, Esq.
Mary Anne O. Lucas, Esq.
O’MALLEY & LANGAN
201 Franklin Avenue
Scranton, PA 18503
Tel: (570) 344-2667
Fax: (570) 344-6199
tomalley@omalleylangan.com
mlucas@omalleylangan.com

Raina Borrelli (*pro hac vice*)
TURKE & STRAUSS LLP
613 Williamson Street, Suite 201
Madison, Wisconsin 53703
Telephone: (608) 237-1775
Facsimile: (608) 509-4423
raina@turkestrauss.com

Daniel E. Gustafson
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgustafson@gustafsongluek.com

Attorneys for Plaintiff Jane Doe

CERTIFICATE OF SERVICE

I, Patrick Howard, hereby certify on April 14, 2023, that a true and correct copy of the foregoing Plaintiff's Motion for Remand, Plaintiff's Memorandum of Law in Support, the Declaration of Patrick Howard in Support and all exhibits thereto, were filed electronically through the Court's CM/ECF System and was served upon all counsel of record at the e-mail address listed in the Court's database.

/s/ Patrick Howard

Patrick Howard